

Rickey Lee Young, Jr. #22212-045

Name and Prisoner/Booking Number

FCC-Yazoo City Medium USP

Place of Confinement

PO Box 5000

Mailing Address

Yazoo City, MS 39194-5000

City, State, Zip Code

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN - DIVISION**

UNITED STATES OF AMERICA,

vs.

RICKEY LEE YOUNG, JR.

FULL NAME OF MOVANT

(include name under which you were convicted)

CASE NUMBER:

CIV. 23-4151

To be supplied by the Clerk of Court

CR. 4:22-cr-40031-2

Criminal case in which sentence was imposed

**MOTION TO VACATE, SET ASIDE
OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY
28 U.S.C. § 2255**

A. JUDGMENT OF CONVICTION

1. Name and location of court which entered the judgment of conviction you are challenging:
U.S. District Court - Southern Division of South Dakota - Sioux Falls
2. Case number: 4:22-cr-40031-2
3. Date of judgment of conviction: January 10, 2023
4. Length of sentence(s): 151 Months
5. Nature of offense(s) of which you were convicted (all counts): Count I - Conspiracy
To Distribute a Controlled Substance, in violation of 21 U.S.C.
§ 841(a)(1) and 21 U.S.C. § 846 -
6. What was your plea? ☒ Guilty ☐ Not guilty ☐ Nolo contendere
If you entered a guilty plea to one count or indictment and a not guilty plea to another count or indictment, give details: N/A
7. If you went to trial, what kind of trial did you have? N/A ☐ Jury ☐ Judge only
8. Did you testify? ☐ Yes ☒ No

**MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE
BY A PERSON IN FEDERAL CUSTODY (28 U.S.C. § 2255)**

B. DIRECT APPEALS

1. Did you appeal the conviction or sentence you are challenging? ☐ Yes ☒ No
 If you did appeal, answer the following:
- a. Name of court: _____ N/A
- b. Date the appeal was filed: _____ (month/day/year)
- c. Case number: _____
- d. Grounds raised: _____

- e. Result: _____
- f. Date the appeal was decided: _____ (month/day/year)
2. Did you file a petition for writ of certiorari in the United States Supreme Court? ☐ Yes ☒ No
 If you answered "yes", answer the following:
- a. Date the petition was filed: _____ N/A (month/day/year)
- b. Case number: _____
- c. Result: _____
- d. Date the petition was decided: _____ (month/day/year)

Attach a copy of all written decisions on your appeal

C. OTHER PROCEEDINGS

1. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court? ☐ Yes ☒ No
 If you did, answer the following:
- a. Name of court: _____
 _____ N/A
- b. Date of filing: _____ (month/day/year)
- c. Case number: _____
- d. Nature of the proceeding: _____
- e. Grounds raised: _____

- f. Did you receive a hearing on your motion, petition, or application? ☐ Yes ☐ No
- g. Result: _____
- h. Date of result: _____ (month/day/year)
2. If you filed a second motion, petition, or application, give the same information:
- a. Name of court: _____
 _____ N/A
- b. Date of filing: _____ (month/day/year)
- c. Case number: _____
- d. Nature of the proceeding: _____
- e. Grounds raised: _____

- f. Did you receive a hearing on your motion, petition, or application? ☐ Yes ☐ No
- g. Result: N/A
- h. Date of result: _____ (month/day/year)

Attach a copy of all written decisions from other proceedings

D. APPEALS FROM OTHER PROCEEDINGS

Did you appeal, to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

1. First petition: ☐ Yes ☒ No
2. Second petition: ☐ Yes ☒ No

If you did not appeal from the action on any motion, petition, or application, explain briefly why not: Counsel was ineffective for failing to file a NOTICE OF APPEAL -

Attach a copy of all written decisions on your appeal from other proceedings

E. PENDING PROCEEDINGS

Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court regarding the conviction or sentence you are challenging in this motion? ☐ Yes ☒ No

- a. Name and location of the court: N/A
- b. Date of filing: _____ (month/day/year)
- c. Case number: _____
- d. Nature of the proceeding: _____
- e. Grounds raised: _____

F. REPRESENTATION

Who was the attorney who represented you in the following proceedings? Identify whether the attorney was appointed, retained, or whether you represented yourself pro se (without counsel).

	Name of Attorney	Appointed	Retained	Pro Se
1. Preliminary hearing:	<u>Counsel of Record</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Arraignment and plea:	<u>Counsel of Record</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Trial/guilty plea:	<u>N/A / Counsel of Record</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Sentencing:	<u>Counsel of Record</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Direct appeal:	<u>N/A</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. In any post-conviction proceeding:	<u>IN PRO SE</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. On appeal from any ruling against you in a post-conviction proceeding:	<u>IN PRO SE</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

G. OTHER SENTENCES

Do you have any future sentence to serve after you complete the sentence imposed by the judgment you are challenging in this motion? ☐ Yes ☒ No

If you do have another sentence to serve, answer the following:

1. Name and location of the court that imposed the other sentence: N/A
2. Date of judgment of conviction: _____ (month/day/year)
3. Length and terms of sentence: _____
4. Have you filed or do you plan to file a motion, petition or application attacking the judgment which imposed the sentence to be served in the future? ☐ Yes ☐ No

CLAIMS FOR RELIEF

On the following pages, state concisely every ground for which you claim that your conviction or sentence violates the United States Constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and supporting facts.

CAUTION:

- **Single Motion:** If you fail to set forth all grounds in this Motion challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts setting forth specifically what your attorney did or failed to do. A rule of thumb to follow is – state who did exactly what to violate your federal constitutional rights at what time or place.
- **Timeliness of Motion:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255¹ does not bar your motion.

Pursuant to 28 U.S.C. § 2255 this Motion is timely and
within the one-year date of final adjudication -
Sentencing/Judgment Date of January 10, 2023 -

See 28 U.S.C. § 2255 (F)(1) -

¹ The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) as contained in 28 U.S.C. § 2255(f) provides in part that:

- (f) A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –
- (1) the date on which the judgment of conviction becomes final;
 - (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
 - (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

H. GROUND I

1. My federal conviction or sentence violates the following constitutional right, federal law or treaty: Ineffective Assistance of Counsel - Fifth Amendment
Violation - Failure to File A Notice of Appeal -

2. **Supporting Facts:** (State as briefly as possible the FACTS supporting Ground I. State the facts clearly in your own words without citing cases or legal arguments).

(See Attached Memorandum of Law With Points And Authorities
in Support of § 2255 Petition)

I. GROUND II

1. My federal conviction or sentence violates the following constitutional right, federal law or treaty: N/A

2. **Supporting Facts:** (State as briefly as possible the FACTS supporting Ground II. State the facts clearly in your own words without citing cases or legal arguments).

N/A

J. GROUND III

1. My federal conviction or sentence violates the following constitutional right, federal law or treaty: N/A

2. **Supporting Facts:** (State as briefly as possible the FACTS supporting Ground III. State the facts clearly in your own words without citing cases or legal arguments).

N/A

K. GROUND IV

1. My federal conviction or sentence violates the following constitutional right, federal law or treaty: N/A


2. **Supporting Facts:** (State as briefly as possible the FACTS supporting Ground IV. State the facts clearly in your own words without citing cases or legal arguments).


N/A


WHEREFORE, Movant prays that the court will grant Movant the relief to which he may be entitled in this proceeding: Vacate Judgment - Reinstate Judgment - Allow for an Out-Of-Time-Notice of Appeal - Allow/Preserve Remaining Issues to be Raised in a FUTURE § 2255 Petition if called for; or in the ALTERNATIVE
I declare under penalty of perjury that the foregoing is true and correct.

SET FOR EVIDENTIARY
HEARING BASED ON MERITS
WARRANTED -

Signed on 9-1-2023
DATE


SIGNATURE OF MOVANT
Rickey Lee Young, Jr.
Petitioner/IN PRO PER/Affiant


(Name and title of paralegal, legal assistant,
or other person who helped prepare this petition)
Rickey Lee Young, Jr./IN PRO SE


(Signature of attorney, if any)
Rickey Lee Young, Jr. / IN PRO SE

N/A

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If needed, you may attach additional pages. The form, however, must be completely filled in to the extent applicable.



Rickey Lee Young, Jr.
Reg. No. 22212-045
Federal Correctional Complex
Yazoo City Medium U.S.P.
P.O. Box 5000
Yazoo City, MS 39194-5000

X-RAYED BY
SOUTH DAKOTA
CSO

U.S. District Court
District of South Dakota
Clerk of the Court
U.S. Courthouse
400 S. Phillips Avenue
Sioux Falls, S.D. 57104